

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

FRIDAY, THE 30TH DAY OF NOVEMBER 2012/9TH AGRAHAYANA 1934

WP(C).No. 26334 of 2012 (N)

PETITIONER(S):

**K.BIJU, AGED 36 YEARS,
S/O.LATE KRISHNA PILLAI,PUNARTHAM HOUSE,
KAYAMKULAM MURI,KAYAMKULAM VILLAGE.**

**BY ADVS.SRI.K.R.SUNIL
SRI.M.G.SREEJITH**

RESPONDENT(S):

**1. KAYAMKULAM MUNICIPALITY,
KAYAMKULAM,
REPRESENTED BY ITS SECRETARY.**

**2. THE SECRETARY,
LOCAL SELF GOVERNMENT INSTITUTIONS,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**

**R1 BY ADV. SRI.RAYA SHENOI,SC,KAYAMKULAM MUNICIPALITY
R2 BY GOVERNMENT PLEADER ADV. SMT. SUNITHA VINOD**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-11-2012,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).No. 26334 of 2012 (N)

APPENDIX

PETITIONER(S) EXHIBITS :

EXT-P1 : COPY OF THE RECEIPT DATED 31.3.2010 ISSUED BY THE 1ST RESPONDENT

EXT-P2 : COPY OF THE VERDICT RENDERED BY THE APEX COURT IN CIVIL
APPEAL NO. 1396,1397/2002

EXT-P3 : COPY OF THE DRAFT SALE DEED SUBMITTED BEFORE THE ADDL.DISTRICT
COURT,MAVELIKKARA.

EXT-P4 : COPY OF THE INTERLOCUTORY APPLICATION FOR EXECUTING EXT.P2

EXT-P5 : COPY OF THE REPRESENTATION DATED 1.11.2012 SUBMITTED BY THE
PETITIONER.

RESPONDENTS' EXHIBITS : NIL

/ TRUE COPY /

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P.A. TO JUDGE

K. SURENDRA MOHAN,J

W.P.C. No. 26334 of 2012

Dated this the 30th November 2012

J U D G M E N T

The complaint of the petitioner is that though he has submitted Ext.P5 application for the grant of a fresh trade licence, he has not been granted the same till date. The petitioner contends that his business is one that he has been conducting for the past 15 years. Earlier his father was conducting it and after his death, the petitioner has been conducting the same. Though the petitioner was directed to produce consent from the landlord, he has not been able to produce the same for the reason that a litigation is pending between the landlord and the petitioner. Placing reliance on Ext.P2 judgment of the Honourable Supreme Court, the counsel points out that the litigation has concluded in his favour. Consequently, the petitioner has become entitled to get the property transferred to his name from the landlord, in enforcement of an agreement for sale. The petitioner has already

produced a draft sale deed before the Execution Court and orders are awaited.

2. Adv. Sri. Raya Shenoy, who appears for the Municipality submits that though the petitioner has placed reliance on Ext.P2, no records relating to the litigation were produced before the Municipality. Since the petitioner has other brothers, consent from the other brothers is also necessary for the purpose of transferring the trade licence or for issuing a fresh trade licence to the petitioner. The counsel assures that on the petitioner producing the said documents, the petitioner's applications would be considered and necessary orders would be passed thereon.

3. Adv. K.R. Sunil who appears for the petitioner submits that the petitioner would produce the necessary documents. In view of the above submission, it is sufficient that this writ petition is disposed of directing the 1st respondent to consider the petitioner's application for licence, without further delay.

This writ petition is therefore disposed of with the following directions.

1. The petitioner shall produce the records of the litigation that was pending between him and the landlord, which has ended in his favour, for the purpose of satisfying the 1st respondent that he is entitled to continue in possession of the premises in his own right. Petitioner shall also produce the consent or No Objection Certificates from the other legal heirs of his father.

2. The 1st respondent shall consider the application for licence submitted by the petitioner in accordance with law and shall pass appropriate orders thereon, as expeditiously as possible and at any rate within a period of two weeks from the date of production of all the documents by the petitioner.

Sd/-
**K. SURENDRA MOHAN
JUDGE**